



Chairman Ted J. Thomas
ARKANSAS PUBLIC SERVICE COMMISSION
1000 CENTER STREET
LITTLE ROCK, ARKANSAS 72201-4314

April 6, 2018

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: NOTICE OF EX PARTE COMMUNICATION filed *In the Matter(s) of (i) Bridging the Digital Divide for Low-Income Consumers WC Docket No. 17-287, Lifeline and Link Up Reform and Modernization, WC Docket No. 11-42, Telecommunications Carriers Eligible for Universal Service Support, WC Docket No. 09-197, (ii) Accelerating Broadband Deployment, GN Docket No. 17-83, (iii) Connect American Fund, WC Docket No. 10-90, Universal Service Reform – Mobility Fund, WT docket No. 10-208, ETC Annual Reports and Certifications, WC Docket No. 15-58, Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135, Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92*

Dear Ms. Dortch:

In accordance with 47 C.F.R. § 1.1206(b), I am filing this notice of my meeting today, April 6, 2018, with Federal Communications Commission (FCC) Chairman Ajit Pai. In that meeting, I provided the Chairman with handouts outlining advocacy points. Those handouts are appended to this *ex parte*. I also addressed the following three open FCC initiatives:

[1] Pending Lifeline rulemaking: The FCC must keep non-facilities-based resellers in the program.

State commissions, including my own, recognize and appreciate the FCC's outreach to in the Lifeline proposed rulemaking and in particular its acknowledgement of States' significant role in the Lifeline program – designating eligible carriers and assisting in the campaign to stop fraud and abuse.

The FCC should not block non-facilities based cellular carriers from the Lifeline Program. They are crucial to ensure low-income households remain connected to vital telecommunication services. The record in this proceeding indicates that 8.3 million Americans, including 84,000 in Arkansas would lose their current service provider if the FCC effectively removes resellers from the Lifeline program. It does not appear the record supports the underlying notion that the removal will increase investments in infrastructure.

[2] Broadband Deployment Advisory Committee: The FCC must balance membership and include critiques in any final posted reports.

State commissions were among the first to complement Chairman Pai when he raised the idea for the BDAC. But States also joined other parties pointing out the obvious: *any BDAC recommendations will necessarily reflect the composition of the committee.* That is exactly what happened. *In spite of good faith efforts by the staff and BDAC members,* the composition of the BDAC has undermined the work product. Instead of

balanced proposals, BDAC work product is skewed in favor of those seeking attachments to public infrastructure.

FCC should immediately, “increase[e] the membership of State and local government representatives on the [BDAC] to an amount that equitably balances membership by BIAS industry representatives.” Moreover, to make certain any final BDAC consolidated report reflects some measure of balance, any final publication – including the State model rules – should append a critique or critiques by the interests that are clearly underrepresented.

[3] Pending application to review dismissal of a “Rate Floor” Petition for Reconsideration should be granted.

In 2014, the FCC phased in universal service support reductions based on local voice service rate floors. On January 21, 2015, several rural phone associations filed an [Application for Commission Review](#) of the Wireline Competition Bureau Order dismissing their request to reconsider that June 2014 “rate floor” decision.

The FCC should grant that Application for review or *sua sponte* open a separate proceeding to consider if the rate floor mechanism should be abandoned or at a minimum, reconsider the current methodology used to set the floors/reasonable comparability benchmarks.

Then Commissioner Pai’s April 23, 2014 dissent opposing the imposition of a local voice service rate floor that significantly increased rural rates was correct on several fronts. (Mimeo at 205-206) The logic of the dissent applies equally to the rate floor subsequently established for broadband services.

The dissent “strongly disagrees with the Commission’s decision to substantially increase many rural Americans’ phone bills.” That rate floor does only make “phone service less affordable in rural areas, where incomes are lower and families have fewer telecommunications options” The dissent also correctly points out that the rate floor does not reduce subsidies for basic phone service because so long as carriers raise their rates up to the rate floor, they receive the same subsidy. There is no savings to the Fund.

The dissent also urged a closer examination of the policy.

The pending Application for Commission Review provides a forum for that needed examination. If granted, the FCC will need to at least reconsider of the methodology for establishing the rate floor. That proceeding also provides an opportunity for the FCC to not simply re-examine the rate floor methodology but also to comprehensively examine several issues raised in the dissent, including whether it makes sense (or is consistent with a reasonable comparability standard) for rural rates in some States to leapfrog the prevailing local telephone rates in the more urban areas of that State, whether more localized survey data would better serve the goal of ensuring reasonably comparable service at reasonably comparable rates, whether the rate floor requirement usurps State commission authority over local rates, and whether states like West Virginia should have the flexibility of preserving a low-cost basic tier of service to protect access to voice service for low-income and fixed income consumers or if instead hampering a state’s ability to protect its most vulnerable consumers erodes a key foundation of the network compact.

Please feel free to contact me with any questions.

Respectfully Submitted,

/s/ Ted J. Thomas

Chairman
Arkansas Public Service Commission

April 6, 2018 Meeting Commissioner Ted Thomas and FCC Chairman Ajit Pai

FCC SHOULD CONTINUE TO PERMIT NON-FACILITIES BASED RESELLERS TO OFFER LIFELINE SERVICES

- The FCC should reject the recent proposal to require that only carriers that own facilities in a particular area can qualify to provide the service – which means no wireless resellers.
- The bulk of the 8,364,101 cell phone Lifeline consumers receive their service from such resellers. Basically, almost all of those 8.3 million Americans will *lose* their current Lifeline service if the FCC approves this new requirement. And in many States there may be no “facilities-based” cell phone option, *e.g.*, AT&T, Verizon and T-Mobile only offer a much more expensive version of Lifeline in parts of 14, 4 and 9 states, respectively. Arkansas is not one of those States. The FCC cannot mandate a wireless carrier become a Lifeline provider in areas served by an existing wireline eligible telecommunications carrier.
- At least 84,000 Arkansans rely on resellers. All would have their service disrupted.
- The record in the proceedings does not support elimination of the reseller option. An initial review of the initial and reply comments demonstrates (i) the majority of comments filed vigorously oppose the idea and (ii) there does not appear to be any record evidence submitted supporting the idea that limiting lifeline services to facilities-based carriers will result in additional investment facilities.

FCC SHOULD IMMEDIATELY BALANCE BDAC REPRESENTATION

- State and local representatives have the strongest economic incentives to assure expeditious roll-out of broadband infrastructure. But they also live in the real world. Providing a range of taxpayer subsidies for profitable infrastructure providers, ignoring competing considerations and/or public health and safety issues is a prescription for bad policy. That’s why - to generate policies optimized to work efficiently in an actual urban environment – the BDAC should have had carefully balanced membership.
- Last year State Commissions were among the first to complement Chairman Pai for creation of the BDAC.
- State Commissions also joined other parties pointing out the obvious: *any BDAC recommendations will necessarily reflect the composition of the committee.*
- That is exactly what happened. *In spite of good faith efforts by the staff and BDAC members*, the composition of the BDAC has undermined the work product.
- Instead of balanced proposals, the ideas the BDAC has already voted upon (in January) and will vote on (on April 25) are skewed in favor of those seeking attachments to public infrastructure.
- FCC should immediately, “increase[e] the membership of State and local government representatives on the [BDAC] to an amount that equitably balances membership by BIAS industry representatives.”
- To make certain any final BDAC consolidated report reflects some measure of balance, any final publication – including the State model rules – should append a critique or critiques by the interests that are clearly underrepresented.

FCC SHOULD IMMEDIATELY RE-EXAMINE THE LOCAL VOICE SERVICE RATE FLOOR MECHANISM/METHODOLOGY

- In 2014, the FCC phased in universal service support reductions based on local voice service rate floors. On January 21, 2015, several rural phone associations filed an [Application for Review](#) of the Wireline Competition Bureau Order dismissing their request to reconsider that June 2014 “rate floor” decision.
- The FCC should grant that Application for review or *sua sponte* open a separate proceeding to consider if the rate floor mechanism should be abandoned or at a minimum, reconsider the current methodology used to set the floors/reasonable comparability benchmarks.
- Then Commissioner Pai’s April 23, 2014 dissent opposing the imposition of a local voice service rate floor that significantly increased rural rates was correct on several fronts. (Mimeo at 205-206) The logic of the dissent applies equally to the rate floor subsequently established for broadband services.
 - The dissent “strongly disagrees with the [FCC] decision to substantially increase many rural Americans’ phone bills.” That rate floor does only make “phone service less affordable in rural areas, where incomes are lower and families have fewer telecommunications options”
 - The dissent also correctly points out that the rate floor does not reduce subsidies for basic phone service because so long as carriers raise their rates up to the rate floor, they receive the same subsidy. There is no savings to the Fund.
 - The dissent also urged a closer examination of the policy.
- The pending Application for Review provides a forum for that needed examination. If granted, the FCC will have to address the petitions request to reconsider of the methodology for establishing the rate floor. However, that proceeding also provides an opportunity for the FCC to do more, including comprehensively examine several issues raised in Commissioner Pai’s dissent, including whether it makes sense (or is consistent with a reasonable comparability standard) for rural rates in some States to leapfrog the prevailing local telephone rates in the more urban areas of that State, whether more localized survey data would better serve the goal of ensuring reasonably comparable service at reasonably comparable rates, whether the rate floor requirement usurps State commission authority over local rates, and whether states like West Virginia should have the flexibility of preserving a low-cost basic tier of service to protect access to voice service for low-income and fixed income consumers or if instead hampering a state’s ability to protect its most vulnerable consumers erodes a key foundation of the network compact.